

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
ENTERED

FEB 25 2002

MARK NEWBY, ET AL.

Plaintiffs,

vs.

ENRON CORPORATION, ET AL.

Defendants.

Michael N. Milby, Clerk of Court

CIVIL ACTION NO. H-01-3624  
AND CONSOLIDATED CASES

**ORDER**

Pending before the Court are:

- (1) Fleming & Associates, L.L.P.'s Motion for Reconsideration or in the Alternative Motion to Suspend the Court's Injunction Pending Appeal (Instrument No. 309);
- (2) Fleming & Associates, L.L.P.'s Motion for Expedited Hearing on Fleming & Associates, L.L.P.'s Motion for Reconsideration or in the Alternative, Motion to Suspend the Court's Injunction Pending Appeal (Instrument No. 310);
- (3) Fleming & Associates, L.L.P.'s Motion for Leave to file Two Enron-Related Actions in State Court Seeking Injunctive Relief (Instrument No. 311).

The Court has reconsidered its Injunction against Fleming & Associates, L.L.P.'s filing of Enron-related actions in state court. No new arguments or authorities have been offered. The Injunction is justified and necessary for the reasons stated in the Court's decision. Suspension of the injunction pending appeal would frustrate the injunction. In light of the time frame of the Motion for Expedited Hearing, the State Court injunction hearing, and this Order, Fleming & Associates, L.L.P.'s Motion for Expedited Hearing is moot.

The Court was not provided with copies of the two potential lawsuits Fleming & Associates, L.L.P. has indicated it wishes to file, so the Court does not know what they allege. Assuming they make the same or similar allegations found in the other lawsuits filed by Fleming and Associates, L.L.P., however, filing of the new suits in state court would merely compound the chaos, and harassment created by Fleming & Associates, L.L.P.'s filing of the other lawsuits in state court.

Fleming & Associates, L.L.P. has requested the Court to clarify whether the injunction entered on February 15, 2002 is preliminary or permanent. The Court considers the injunction to be permanent in nature.

Fleming & Associates, L.L.P. further asks the Court to make additional findings of fact pursuant to Rule 52(b) of the Federal Rules of Civil Procedure in order that it may be informed of the facts relied upon by the Court in rendering its decision. The facts relied upon by the Court in rendering its decision are not controverted and are already set forth in the Court's decision.

Fleming & Associates, L.L.P. is not enjoined from proceeding on the cases it has already filed in state court or that have been removed and are awaiting a ruling on a motion to remand, except to the extent that Fleming & Associates, L.L.P. is not to continue to seek a temporary restraining order or injunction in *David Jose, et al. V. Arthur Andersen, L.L.P., et al.*, in the 57<sup>th</sup> Judicial District Court of Bexar County, Cause No. 2002-CI-01906 while it is in state court and to the extent Fleming & Associates, L.L.P. may be restrained by the PSLRA, the Bankruptcy Act, or other federal law. Accordingly, it is here

**ORDERED, ADJUDGED, and DECREED** that

Fleming & Associates, L.L.P.'s Motion for Reconsideration or in the alternative Motion to Suspend the Court's Injunction Pending Appeal (Instrument No. 309) is **DENIED**;

Fleming & Associates, L.L.P.'s Motion for Expedited Hearing on Fleming & Associates, L.L.P.'s Motion for Reconsideration or in the Alternative, Motion to Suspend the Court's Injunction Pending Appeal (Instrument No. 310) is **DENIED** as **MOOT**.

**SIGNED** at Houston, Texas, this 25<sup>th</sup> day of February, 2002.



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MELINDA HARMON  
UNITED STATES DISTRICT JUDGE